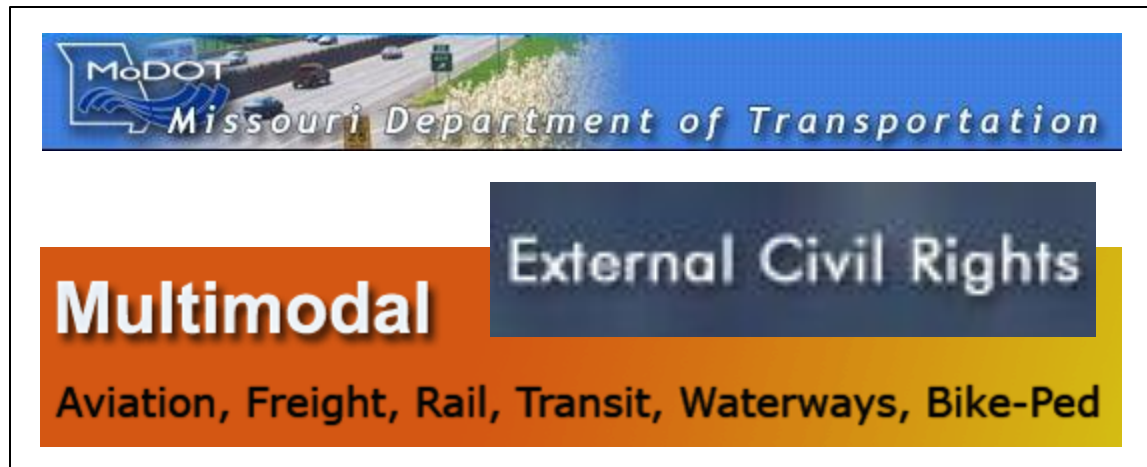


MoDOT Title VI Workshop

Introduction



Prepared by
Philips & Associates, Inc., Program Consultants

September 24, 2013



Title VI Program Administration and Staff

☐ **Lester Woods, Jr.**

- Director – MoDOT External Civil Rights

☐ **Steve Billings**

- Administrator of Transit – MoDOT Transit Section

☐ **Angela Sutton**

- Intermediate Civil Rights Specialist – MoDOT ECR

Program Consultants

☐ **George Philips**

- President – Philips & Associates, Inc.

☐ **David Dickey**

- Vice-President – Philips & Associates, Inc.



Title VI Program Outline

<input type="checkbox"/> Federal Law	page 4
<input type="checkbox"/> Discrimination	page 5
<input type="checkbox"/> FTA Title VI Program	page 12
<input type="checkbox"/> Definitions	page 13
<input type="checkbox"/> Source Material	page 14
<input type="checkbox"/> FTA Administrator: Title VI Highlights	page 15
<input type="checkbox"/> Compliance	page 17
<input type="checkbox"/> MoDOT Transit Section Fed. Grant Program	page 25



Title VI Program Federal Law

Title **VI of the Civil Rights Act of 1964 (42 U.S.C. 2000D)** provides that no person in the United States shall, on the basis of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to **discrimination** under any program or activity receiving Federal financial assistance.

SOURCE: 4702.1B, II-1.



Title VI Program Discrimination

- ☐ **Potential **discrimination** is relevant with regard to routing, scheduling, or quality of transit service.**
 - ☐ Frequency of service, age and quality of vehicles assigned to routes, quality of stations serving different routes, and location of routes must not be determined on the basis of race, color, or national origin.
 - ☐ Title VI's prohibitions are meant to apply to all programs and activities of Federal aid recipients and contractors whether those programs and activities are Federally funded or not.

DOT 49 CFR 21, Appendix C; Transit Action Network, KC MO; MoDOT ECR, 07/26/12.



Title VI Program **Discrimination**

- ❑ **Discrimination** refers to any action or inaction, whether intentional or unintentional, in any program or activity of a Federal aid **recipient**, **subrecipient**, or contractor that results in **disparate treatment**, **disparate impact**, or perpetuating the effects of prior discrimination based on race, color, or national origin.
- ❑ **Disparate treatment** refers to actions that result in circumstances where similarly situated persons are intentionally treated differently (i.e., less favorably) than others because of their race, color, or national origin.
- ❑ **Disparate impact** refers to a facially neutral policy or practice that disproportionately affects members of a group identified by race, color, or national origin, where the recipient's policy or practice lacks a substantial legitimate justification and where there exists one or more alternatives that would serve the same legitimate objectives but with less disproportionate effect on the basis of race, color, or national origin.

SOURCE: Georgia Public Involvement/Public Participation Plan, 2013



Title VI Program Discrimination

Disparate treatment:

- ❑ The recipient, in violation of the statute, intentionally discriminates against beneficiaries.
 - ❑ Disparate treatment claims require proof of an intent to discriminate against a protected class.
 - ❑ In order to establish a claim of intentional discrimination, a complainant must show that a particular action was motivated by an intent to discriminate. This usually means presenting evidence of discriminatory statements, and/or a history of discriminatory treatment.

SOURCE: Transit Action Network, Kansas City MO



Multimodal

External Civil Rights

Aviation, Freight, Rail, Transit, Waterways, Bike-Ped

Title VI Program Discrimination

Disparate impact:

- ☐ The recipient, in violation of agency regulations, uses a neutral procedure or practice that has disproportionate adverse consequences on minority beneficiaries, and such practice lacks a substantial legitimate justification.

SOURCE: Transit Action Network, Kansas City MO



Title VI Program Discrimination

Disparate impact:

- ❑ **The recipient, in violation of agency regulations, uses a neutral procedure or practice that has disproportionate adverse consequence on minority beneficiaries, and such practice lacks a substantial legitimate justification.**

Examples of actions with potentially disparate impacts:

- ❑ Installing bus shelters on the basis of their potential to generate advertising revenue.
- ❑ Assigning clean-fuel vehicles and facilities to routes that do not serve predominantly minority communities.
- ❑ Implementing service reductions or fare increases that disproportionately affect minority communities.
- ❑ Planning a fixed guideway project that travels through predominantly minority communities but does not include stations in these communities.

SOURCE: Transit Action Network, Kansas City MO



Title VI Program Discrimination

When can recipients take actions that have disparate impacts?

- ☐ In cases when the proposal is supported by a “substantial legitimate justification” (“*TEST ONE*”) ***and***
- ☐ There are no comparable effective alternative practices that would result in less disparate impacts (“*TEST TWO*”).

In any event, the justification for the action must not be a pretext (ploy, ruse, tactic) for discrimination.

SOURCES: Transit Action Network, Kansas City MO ; 4702.1B, III-11.



Title VI Program Discrimination

Disproportionate burden:

- ❑ FTA requires *applicable* transit providers* to evaluate proposed **service and fare changes** to determine whether low-income populations will share a **disproportionate burden** of **service or fare changes**.

** meeting qualifying criteria*

- ❑ Low income populations are not a protected class under Title VI.
- ❑ This disproportionate burden requirement is in recognition that transit-dependent populations and minority and low-income populations often overlap.

SOURCE: Transit Action Network, Kansas City MO ; 4702.1B, IV-11.



Title VI Program

FTA Title VI Program

- ❑ Any public or private entity that receives Federal financial assistance from the Federal Transit Administration (FTA), *whether directly from FTA or indirectly through a **primary recipient*** must have in place a **Title VI Program**.
 - ❑ **Recipients** must ensure that all contractors and subcontractors adhere to Title VI laws and regulations.
- ❑ **Title VI Requirements and Guidelines** provide instructions to integrate Title VI regulations in programs and activities.
- ❑ **MoDOT** is committed to ensuring that projects, programs and services are performed without discrimination.
 - ❑ MoDOT is a **primary recipient**, a **designated recipient**, and a **direct recipient**.

SOURCES: Circular 4702.1B, I-2; Appendix L-3; 4702.1B, Quick Reference.



Title VI Program

Definitions

- ❑ **Recipient:** any public or private entity that receives Federal financial assistance from FTA, whether directly from FTA or indirectly through a primary recipient. *This term includes subrecipients, direct recipients, designated recipients, and primary recipients.* The term does not include any ultimate beneficiary under any such assistance program.
- ❑ **Primary recipient (NEW TERM):** any FTA recipient that extends Federal financial assistance to a subrecipient.
- ❑ **Subrecipient:** an entity that receives Federal financial assistance from FTA through a primary recipient.
- ❑ **Designated recipient:** an entity selected to receive and apportion FTA funds. Includes State or regional authority, and Metropolitan Planning Organizations (MPOs), *as defined under FTA's Section 5307 Program.*
- ❑ **Direct recipient:** *an entity that received funding directly from FTA. As a direct recipient, does not extend financial assistance to subrecipients.*

SOURCES: 4702.1B, I-2; fta.dot.gov, Role of Designated Recipient and MPO.



Title VI Program Source Material

- ❑ **Letter from FTA Administrator regarding Title VI Program**
<http://www.fta.dot.gov/civilrights/12328.html>
- ❑ **Title VI Requirements and Guidelines for Federal Transit Administration Recipients (FTA Circular 4702.1B).**
http://www.fta.dot.gov/legislation_law/12349_14792.html
- ❑ **Quick Reference (FTA) Title VI Circular 4702.1B.**
http://www.fta.dot.gov/documents/T6_One_Pager_Revised.pdf
- ❑ **Title VI – Frequently Asked Questions**
<http://www.fta.dot.gov/civilrights/12885.html>
- ❑ **MoDOT Office of Civil Rights**
http://www.modot.org/business/contractor_resources/External_Civil_Rights/DBE_program.htm
- ❑ **MoDOT Transit Section**
<http://www.modot.org/Multimodal/index.htm>



Title VI Program

FTA Administrator - Title VI Program Highlights

- ☐ **Must develop a robust Public Engagement Plan.**
 - ☐ **Community meetings, focus groups, and public hearings.**
 - ☐ **Written public participation process describing strategies, procedures, and outcomes relating to ongoing public participation activities (including change considerations).**
 - ☐ Obtain input, explain policies and provide education on how the following relate to minority/low income populations:
 - ☐ Fixed route service standards and policies*
 - ☐ Proposed service change considerations*

** meeting qualifying criteria*

SOURCES: 4702.1B, III-5; FTA Administrator May 2013.



Title VI Program

FTA Administrator - Title VI Program Highlights

- ☐ **Title VI Programs must have Governing Board approval.**
 - ☐ **Title VI Program**
 - ☐ Service and Fare change policy*
 - ☐ Disparate impact and disproportionate burden policies*
 - ☐ Results of any service monitoring*
 - ☐ Results of any service and fare analysis*
- ☐ **Equity analysis for new facilities (including disparate impact analysis of all siting alternatives before selection of preferred site).**

** meeting qualifying criteria*

SOURCES: 4702.1B, III-11; FTA Administrator May 2013.



Title VI Program Compliance

Title VI Program Objectives for FTA recipients:

- ☐ Ensure that the level and quality of public transportation service is provided in a nondiscriminatory manner.
- ☐ Promote full and fair participation in public transportation decision-making without regard to race, color, or national origin.
- ☐ Ensure meaningful access to transit-related programs and activities by persons with limited English proficiency (LEP).

SOURCE: Circular 4702.1B, II-1.



Title VI Program Compliance

Title VI Program Requirements for FTA recipients:

- ☐ All FTA recipients must submit a Title VI Program every three years.
- ☐ All FTA recipients must comply with Program reporting requirements of Title VI Circular 4702.1B.
- ☐ All FTA recipients that are fixed route transit providers* must conduct a Title VI assessment when major changes in service or fares are made.
- ☐ All FTA recipients must document, investigate and respond to any Title VI complaints made from the public.

** meeting qualifying criteria*

SOURCES: Circular 4702.1B; Christopher MacKechnie, 2012.



Title VI Program Compliance

Title VI Program Requirements for FTA recipients:

- ☐ Shall submit Title VI Program updates primary recipient (to assist the primary recipient in its compliance efforts).
 - ☐ Title VI program document (triennial requirement)
 - ☐ Annual Update summarizing Title VI complaints; Title VI training; Title VI policy/procedure changes
- ☐ First time applicants must provide information on any previous Title VI activity including compliance history, as well as any applications for other Federal assistance.
- ☐ For all recipients, the Title VI Program must be approved by the recipient's board of directors or appropriate governing entity or official responsible for policy decisions, and recipient must submit documentation of such action.

SOURCE: Circular 4702.1B, III-1 (4.)



Title VI Program Compliance

MoDOT responsibilities* include:

- ☐ Provide **technical assistance** to recipients, consultants.
- ☐ Conduct **reviews** of Title VI Programs of recipients.
 - ☐ **Triennial reviews** corresponding to FTA timeline.
 - ☐ Obtain from recipients **Annual Update** summarizing complaints; Title VI training; policy/procedure changes; public outreach and involvement activities.
- ☐ Conduct **Title VI compliance reviews** of recipients, as necessary.
- ☐ Follow up on **Title VI complaints, investigations,**

* Role of primary/designated recipient

SOURCE: Circular 4702.1B, VIII-1; Georgia DOT.



Title VI Program Compliance

- ❑ FTA may request information other than that required by FTA Circular 4702.1B from a recipient in order for FTA to investigate complaints of discrimination or to resolve concerns about possible noncompliance with DOT's Title VI regulations.
 - ❑ Upon a finding of noncompliance after a review or complaint investigation, Board Resolution has to be submitted showing Board approval of Remedial Action Plan.
- ❑ The FTA Office of Civil Rights conducts periodic discretionary compliance reviews of recipients of FTA funding to determine their compliance with FTA Circular 4702.1B, "Title VI Program Guidelines for Federal Transit Administration Recipients."
- ❑ Compliance reviews also provide technical assistance and make recommendations regarding corrective actions, as deemed necessary and appropriate.

SOURCE: fta.dot.gov/civilrights/12328_5463.html; FTA Overview, Oct. 2012.



Title VI Program Compliance

Recipient noncompliance and available sanctions:

- ☐ Federal informal action
 - ☐ Preferred mechanism
- ☐ Federal corrective action plan
- ☐ Federal funding termination
 - ☐ Federal government can terminate funding for actual or threatened non-compliance.
 - ☐ Hearing rights.



Title VI Program Compliance

Recipient noncompliance and available sanctions:

- ☐ State informal action.
 - ☐ Preferred mechanism.
- ☐ State corrective action plan.
- ☐ Financial penalties for “responsible entities.”
 - ☐ Withhold funding.
 - ☐ Sanctions including possible re-possession of grant-funded equipment or vehicles.



Title VI Program Compliance

MoDOT timeline* for recipients:

- Initial submission of triennial Title VI Program Plans to MoDOT Transit Section by March 31, 2014.**

Sept 2013	Oct 2013	Nov 2013	Dec 2013	Jan 2014	Feb 2014	Mar 2014
						

* Role of primary/designated recipient

SOURCE: Circular 4702.1B, VIII-1.

***Title VI Program******MoDOT Transit Section Federal Grant Programs***

FTA Program (fta.dot.gov/grants)	
5307	Urbanized Area Formula Funding Program
5309	Capital Investment Program (includes New and Small Starts projects)
5310	Transportation for Elderly Persons and Persons with Disabilities
5311 5311(f)	Formula Grants for Non-urban and Intercity Bus Providers
5316	Job Access and Reverse Commute Program (urban and rural allocations)
5317	New Freedom Program (expanded mobility options for persons with disabilities)



Title VI Program

MoDOT Transit Section Federal Grant Programs

- All **recipient Title VI programs** must be submitted to TEAM designate.
- **Designated recipients** and FTA use the TEAM system to manage the grants after awards.

TEAM ID		MISSOURI RECIPIENTS with TEAM ID
1830	St. Louis	METRO Transit (Bi-State Development Agency)
1825	Columbia	City of Columbia Department of Public Works
6309	Jefferson City	City of Jefferson
3087	Joplin	City of Joplin
1828	Springfield	City of Springfield City Utilities
1897	St. Joseph	City of St. Joseph
1898	St. Louis area	East-West Gateway Coordinating Council
1827	Kansas City area	Kansas City Area Transportation Authority (KCATA)
7125	St. Louis area	Loop Trolley Transportation Development District
1851	Kansas City area	Mid-America Regional Council
1814	statewide	Missouri Department of Transportation (MoDOT)

↓
**Transportation
Electronic
Award
Management
System**

MoDOT is a
**designated
recipient.**

SOURCES: fta.dot.gov/grants; FTA 4702.1B Quick Reference; MoDOT Transit Section



Introduction of Participants

- ☐ **Your Name**
- ☐ **Name of organization** you represent today
- ☐ Tell us a little **about your organization**
 - Description of your **clients**
 - Description of your **transit services**
 - Description of your organization's **role in community**
- ☐ **Your role** in your organization
 - Are you responsible for it's Title VI and/or LEP Plans?
- ☐ **Your goals for this workshop** today